ONTARIO

—

ROYAL COMMISSION ON THE OPERATION OF THE MENTAL HOSPITALS ACT.

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REPORT.

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R E P O R T

OF THE

ROYAL COMMISSION ON THE

OPERATION OF THE MENTAL

HOSPITALS ACT

CLIFFORD R. MAGONE

CHAIRMAN.

DR. WILLIAM H. AVERY,

LIONEL P. CONACHER,

COMMISSIONERS.

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TO THE HONOURABLE ALBERT MATTHEWS,

LIEUTENANT-GOVERNOR OF OUR PROVINCE OF ONTARIO

MAY IT PLEASE YOUR HONOUR:

A Commission was issued by Your Honour in the following terms:

"Albert Matthews"

(Coat of Arms)

PROVINCE OF ONTARIO

GEORGE THE SIXTH, by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas KING, Defender of the Faith, Emperor of India.

To

CLIFFORD R. MAGONE,

Barrister-at-law, Solicitor in the Department of the Attorney-General for Ontario,

DR. WILLIAM H. AVERY,

of the City of Toronto, Surgeon,

and LIONEL P. CONACHER,

Member of the Legislative Assembly of the

Province of Ontario.

G R E E T I N G

W H E R E A S in and by Chapter 19 of The Revised Statutes of Ontario, 1937, entitled "The Public Inquiries Act", amongst other things it is enacted that whenever the Lieutenant-Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario or of the conduct of any part of the public business thereof or the administration of Justice therein and such inquiry is not regulated by any special law, he may, by Commission, appoint a person or persons to conduct such inquiry and may confer the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as the Commissioner or commissioners deem requisite for the full investigation of the matters into which they are appointed to examine;

AND WHEREAS Our Lieutenant-Governor in Council of Our Province of Ontario deems it expedient to cause inquiry to be made concerning the matters hereinafter mentioned:

NOW KNOW YE that WE, having and reposing full

trust and confidence in you the said Clifford R. Magone, William H. Avery and Lionel P. Conacher, DO HEREBY APPOINT YOU to be Our COMMISSIONERS, with all the powers authorized by the said Act, to inquire into and report upon,

(1) The management and administration of any hospital established under the provisions of The Mental Hospitals Act, Revised Statutes of Ontario, 1937, Chapter 392;

(2) The operation of The Mental Hospitals Act, Revised Statutes of Ontario, 1937, Chapter 392:

(3) Any matter concerning the admission or committal, treatment or detention of any person admitted or committed to a mental hospital under the provisions of the said Act;

(4) Any charge or complaint made against the Superintendent or any member of the staff of any hospital established under the said Act.

AND WE HEREBY CONFER ON you, Our said Commissioners, all the powers which may be conferred under the said Act, giving to you the power of summoning any person and requiring him to give evidence on oath and to produce

such documents and things as you may deem requisite for the full investigation of the matters into which you are hereby appointed to examine.

AND WE HEREBY appoint you the said Clifford R. Magone to be Chairman of the said Commission.

TO HAVE, HOLD and ENJOY the said Office and Authority for and during the pleasure of Our Lieutenant-Governor in Council for Our Province of Ontario

IN TESTIMONY WHEREOF We have caused these OUR LETTERS to be made PATENT and the GREAT SEAL of OUR PROVINCE of ONTARIO to be hereunto affixed

WITNESS: THE HONOURABLE ALBERT MATTHEWS
LIEUTENANT-GOVERNOR OF OUR PROVINCE of ONTARIO

at Our City of Toronto in Our said Province this tenth day of September in the year of Our Lord one thousand nine hundred and thirty-eight and in the second year of Our Reign

BY COMMAND

"H.C. Nixon"
Provincial Secretary.

Your Commissioners commenced sittings on September 14th. at 2.00 P.M., in the Ontario Municipal Board Courtroom, Parliament Buildings, Toronto, and after a formal opening and the reading of the Commission, the sitting was adjourned until Thursday, September 15th. at the Recreation Hall of the Ontario Hospital at London, Ontario. The sittings continued at London on September 16th, September 19th.,September 20th.,September 21st., September 22., September 27th., September 28th., September 29th., September 30th., October 4th. and October 5th., at Kingston on October 25th., at Brockville on October 26th. at Cobourg on October 27th., at Whitby on October 28th., and at Toronto on November 3rd., November 4th. and November 15th.

CHAPTER I

Section 1 - PROCEDURE OF THE COMMISSION

(a) Preliminary

While the scope of the Commission was intended to embrace the whole operation of the Ontario Mental Hospitals Act, and the administration of Mental Hospitals in the Province of Ontario, certain definite charges or complaints had been made in connection with the administration of the Ontario Hospital at London, against the Superintendent, Dr. George H. Stevenson. An examination into these charges took up a good deal of your Commission's time at the London Hospital.

Dr. George H. Stevenson was represented during the inquiry at London by Arthur M. Lebel, Barrister, London.

(b) Written Evidence

In addition to taking viva voce testimony, we received a large number of letters from patients and ex-patients. Considering that there are approximately 17,316 mental patients on the books in the Ontario Mental Hospitals, (Annual Report 1937, Page 25) it is surprising to learn that we received approximately only 112 letters from patients or their relatives.

Some of these letters were unintelligible, indicating quite clearly that the writer was suffering from a mental illness, and therefore required no further attention. A number of letters were received, however, which appeared to be quite rational, and we determined to obtain the histories and investigate by personal interview or otherwise, some of these cases. While we were agreed that it was not within the scope of our powers to determine whether or not a patient was suffering from a mental illness, it did assist us in coming to a conclusion and in preparing our recommendations, to have investigated individual cases and to have seen individual patients.

(c) Questionnaire

A questionnaire was prepared by Mr. Eric H. Silk, Counsel to the Commission, and forwarded to Superintendents of all Ontario Hospitals, asking them to

call a conference of their senior medical staffs, and prepare themselves to give evidence before the Commission. Oral evidence was taken from the Superintendents of the Ontario Hospitals at London, Kingston, Brockville, Cobourg, Whitby, New Toronto, Toronto, and the Superintendent of the Psychiatric Hospital, Toronto. It was thought that no useful purpose could be served by visiting the other institutions in the Province, but reports were obtained from the Superintendents of these institutions and filed as exhibits.

The result of our consideration of the answers to these questionnaires will be reviewed later in this report.

(d) Visits

We visited a number of institutions, seeing for ourselves the conditions under which patients are detained. We took particular interest in the reception wards and the period during which patients are detained in these wards before being moved to some other part of the institution after their cases had been diagnosed.

We are satisfied that we saw the institution and the patients under normal conditions, without preparation being made by the hospital staff for our visit.

We were accorded every courtesy and facility by the superintendents and members of his staff at the various institutions visited, and all information and files were readily placed at our disposal.

We visited the following institutions:

The Ontario Hospital -- London
The Ontario Hospital - Kingston
The Ontario Hospital - Brockville
The Ontario Hospital - Whitby
The Ontario Hospital - Cobourg

The latter is an institution for female mental defectives, who are given a special training in domestic service. There are in addition to the above a number of psychotic patients there who have not yet been moved as accommodation is not available in other institutions. This should be done as quickly as possible.

(c) Briefs

Applications were received from a number of societies to be permitted to give oral evidence before the Commission. We were of the opinion, however, that the views of these bodies could be expressed in a written brief to be filed with the Commission, and thus save the expense of holding sittings of the Commission. The Social Service Council of Canada and the Eugenics Society of Canada took advantage of this, and their reports were filed.

CHAPTER II

EXISTING PROVISIONS OF THE MENTAL HOSPITALS ACT FOR THE ADMISSION, COMMITMENT, PROBATION OR DISCHARGE OF PATIENTS

As we shall hereafter in our report deal somewhat extensively with the provisions of the existing law regarding the commitment or admission of patients to

the institutions, and also with the methods of discharging or releasing patients on probation, it is desirable that we should preface our report with an examination of the various sections dealing with those matters.

Section I - CLASSES OF INSTITUTIONS

(a) Mental Hospitals

The mental hospitals at London, Hamilton, New Toronto, Toronto, Whitby, Kingston, Brockville, Fort William and Penetanguishene are general mental hospitals, and receive patients for treatment in all classes of mental illness, namely, persons who are mentally ill, mental defectives, epileptics and drug and liquor habituees.

(b) Hospital Schools

A Hospital School has been established at Orillia in which mental defectives of both sexes are cared for. At Cobourg, the mental hospital, while not designed as a school, admits only mentally defective girls. These hospital schools when established are for the admission of mental defectives and not for the mentally ill.

(c) Examination Units

The Minister of Health has power to issue a certificate approving of any place or part of a building as an examination unit. Examination units have been established at some of the Ontario Hospitals, but the

only one established apart from the Ontario Hospitals is in connection with the General Hospital of the City of Ottawa. Persons admitted to examination units may not be kept there for a period longer than thirty days, except with the approval of the Deputy Minister of Hospitals in certain cases.

(d) Approved Homes

The Minister of Health has authority under Section 38 of The Mental Hospitals Act to issue a certificate approving of any buildings, premises or place as an approved home for the reception of patients who are released from a mental hospital or hospital school into the custody of such home. While in such home the patient remains subject to the same control of the superintendent as if he had remained in the mental hospital.

Section II - CLASSES OF PATIENTS

(a) Mentally Ill

Mentally ill patients are defined in Section 1 (m) of the Act to mean a person other than a mental defective, who is suffering from such a disorder of the mind that such person requires care, supervision and control for his own protection or welfare, or for the protection of others.

(b) Mental Defectives

"Mental defective" is defined in Section 1 (k)

of the Act to mean a person in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, and who require care, supervision and control for his own protection or welfare or for the protection of others.

(c) Epileptics

"Epileptic" is not defined by the Act, but by Section 56. The Ontario Hospital at Woodstock is set apart for the treatment and custodial care of epileptics.

(d) Habitues

An habitue is defined in Section 1 (f) of the Act to mean an alcoholic or drug habitue.

Section III - ADMISSIONS AND COMMITMENTS

(a) Mentally Ill

There would appear to be seven types of admissions or committals of mentally ill persons to the Ontario Hospitals.

(i) Voluntary Admission

Section 19 of the Act provides that the superintendent of an institution may receive and detain as a patient any person suitable for care and treatment, who voluntarily makes written application in the prescribed form, and whose mental condition in the opinion of the superintendent is such as to render him

competent to make application. Subsection 3 of the above section provides that no one shall be admitted as a voluntary patient who is suffering from mental illness due to old age or some incurable disease for which a general or other institutional care is required, or who is a mental defective.

There is a provision in subsection 2 that no person who is admitted to a hospital as a voluntary patient shall be detained more than five days after having given notice in writing of his desire to leave the institution. But under Section 24 a patient who enters a hospital as a voluntary patient may be certificated by two medical practitioners and then becomes a certificated patient.

(ii) A Certificated Patient

Section 20 of the Act provides for the admission to institutions upon the certificates of two medical practitioners accompanied by the history record and a financial statement. The certificates must state that the medical practitioner signing it personally examined the patient separately from any other medical practitioner and found him mentally ill. The certificate must also contain the facts upon which the opinion has been formed distinguishing the facts observed from the facts communicated to him by others. Such certificate must be

completed within seven days after the examination and forwarded to the Department of Health or to the Superintendent of the institution within fourteen days.

Under Section 23 an application may be made to the head of a municipality for an examination of a mentally ill person who is in destitute circumstances, and the head of a municipality, if he is satisfied that such person is in destitute circumstances, shall immediately notify two medical practitioners to make the required examination. Admission to the hospital is then the same as in the case of other certificated patients.

(iii) By Magistrates on Information Laid

Under Section 25 of the Act an information may be laid before a Justice of the Peace or Magistrate, charging that a person within his jurisdiction is or is suspected or believed to be mentally ill. Such Justice may issue his warrant to apprehend the said person and bring him before a Magistrate. Provision is also made in the Section for the arrest by a constable, without a warrant, of a person apparently mentally ill, who is conducting himself in a manner which in a normal person would be disorderly. Upon being brought before the Magistrate, the Magistrate is required to

appoint two qualified medical practitioners to examine the accused. In addition to this examination, it is directed in Section 27 that the Magistrate shall hear such evidence upon oath as may be adduced with reference to the mental condition of such person, and shall also direct that an enquiry be made as to his friends or relatives in order that the evidence of some person who is acquainted with his family and previous habits may be had.

By Section 28 if the Magistrate is satisfied that such person is mentally ill, he shall certify him to a mental hospital. If both medical practitioners making the examination do not agree, or if the Magistrate is not satisfied that such person is mentally ill, he shall forthwith discharge him, or may order a further examination, or remand him to an institution for a period not exceeding sixty days for further examination, in which case the provisions of Section 35 as described in the following clause shall apply.

(iv) By Magistrates for examination

Section 35 provides that any person may be admitted to an institution (which includes a mental hospital, hospital school or an examination unit) upon the order of a judge or magistrate, where such person has been apprehended

and is in custody charged with any offence, for a period not exceeding sixty days. Before the expiration of the time contained in the order, a superintendent is required to report in writing the mental condition of such person to the judge or magistrate. Where a superintendent is of opinion that such person is mentally ill, he is required to direct an examination by two independent medical practitioners, and if such medical practitioners certify that the patient is mentally ill, he is detained as a certificated patient as in Clause (ii). If the Superintendent is of opinion that the patient is not mentally ill, he is returned to court for disposition.

(v) Examination Units

Section 60 provides that any person who is believed to be in need of observation may be admitted to an examination unit for a period not exceeding thirty days on the certificate of one medical practitioner.

Patients on any other form of certification may also be held in an examination unit. Section 61 then provides that no person shall be held in an examination unit for a period in excess of thirty days provided, however, that the Deputy Minister may extend the period for an additional sixty days in the case of any patient except one admitted on the certificate of one doctor

under Section 60. While in the examination unit a patient may be certificated by two medical practitioners, as set out in Clause (ii) hereof. If a patient is admitted to an examination unit on the certificate of one doctor, then before he can be certificated, two other doctors must sign the certificate. (See Section 24 (2).)

(vi) Lieutenant-Governor's Warrant

(a) Persons detained in penal institutions.

Section 32 provides that the Lieutenant-Governor, upon evidence satisfactory to him that any person in any gaol or reformatory is mentally ill, may order the removal of such person to a place of safe-keeping or an institution. Section 970 of the Criminal Code in similar terms deals with persons convicted of criminal offences.

(b) Persons found not guilty of offences on the ground of insanity.

Persons who have been tried for an offence and found not guilty on the ground of insanity, may be committed to mental hospitals on the warrant of the Lieutenant-Governor, The same is true of persons who have been tried by a jury and found unfit to instruct counsel on the ground of mental illness.

(vii) Persons deported into Canada.

Section 64 of the Act provides that the Deputy Minister, where he has reason to believe that any mentally ill person has been deported into Ontario, may issue a warrant for the apprehension of such person and for his conveyance to an institution, and for his detention therein as a patient for a period not exceeding thirty days. During such thirty days, two medical practitioners, who may be officers of the Department, shall examine such patient, and if he is certified to be mentally ill, may detain him in the institution.

(b) Mental Defectives

Mentally defective patients may be admitted or committed to Ontario Hospitals or Hospital Schools under any of the methods set out in Clauses (ii) to (vii) under the heading "Mentally Ill". Therefore, the only difference between the admission or committal of mental defectives and mentally ill patients is that mental defectives cannot be admitted on a voluntary application.

(c) Epileptics

The admission or committal of epileptics to Ontario Hospitals is identical with the admission or committal of mentally ill persons.

(d) Habitues

(i) Voluntary

Section 46 of the Act provides that the superintendent may receive as a patient any habitue who voluntarily makes written application in the prescribed form, provided that in the opinion of the superintendent such applicant is at the time capable of appreciating the fact that he is to be admitted as a voluntary patient. The voluntary admission is for a period of one year and no longer, and it is a condition of his admission that he shall remain in the institution for that period.

If such voluntary patient should develop a psychosis during his stay in the institution, he may be certified by two medical practitioners as being mentally ill and continued as a patient in the hospital.

(ii) Order of the County Judge

A county judge may on petition verified by oath setting forth that an alleged habitue is a bona fide resident of Ontario, and is given over to the use of alcohol or drugs so that he is unable to control himself, or is incapable of managing his affairs, or squanders or mismanages his property, or places his family in danger of distress, or transacts his business prejudicially to the interests of his family or his creditors,

or that he uses drugs or intoxicating liquors to such an extent as to render himself dangerous to others, or incurs the danger of ruining his health and shortening his life, order that a copy of such petition be served upon the habitue, and may fix a time for a hearing. At the hearing the judge hears the evidence and inquires into the matters set forth in the petition.

The judge, if he finds such person to be an habitue, may report to the Deputy Minister, and with the report transmit the evidence taken. Upon receipt of such report, the Deputy Minister may by warrant direct the removal of the habitue to an institution to be placed under treatment for a period not exceeding two years.

(iii) A certificate of two Medical Practitioners

Section 52 provides that any person who is suffering from the effects of alcohol or drugs may be admitted to an institution and detained therein for a period not exceeding thirty days on the certificates of two medical practitioners. The admission must be made within three days of the examination referred to in the certificates and not otherwise.

Section IV - PROBATION AND DISCHARGES

(a) Discharges

(i) Warrant of the Deputy Minister and Lieutenant-Governor

Patients who have been admitted on the warrant of the Lieutenant-Governor or of the Deputy Minister are discharged from the institution when, in the opinion of the superintendent, the patient has sufficiently recovered, or when, although not recovered, he may be admitted to a sanitarium, provided that no such patient shall be discharged until the Deputy Minister has certified that the patient is no longer liable to imprisonment.

(ii) Voluntary

The discharge of voluntary patients is controlled by Section 41 of the Act, and provides that a voluntary patient may be discharged when, in the opinion of the superintendent, it is in the interests of such patient; when he is discharged for admission to a sanitarium; or in accordance with the conditions upon which he was admitted. A voluntary patient may also be discharged when default is made in the payment of his maintenance.

(iii) Certificated Patient

Certificated patients are discharged in accordance with Section 42, that is, when, in the opinion of the superintendent, he has sufficiently recovered, or when, although not recovered, he may be admitted to a sanitarium.

(b) Probation

The superintendent of an institution, under Section 36, may allow the patient to return on probation to his family or friends upon receiving a written undertaking that they will keep an oversight over him. If within six months from the date of his release, the patient again becomes mentally ill or defective to such a degree that his confinement in an institution is necessary the superintendent or the Deputy Minister may by warrant direct any constable or police officer to apprehend and bring such patient back to the institution. Patients admitted on the Lieutenant-Governor's warrant are not released on probation unless the Deputy Minister certifies that such person is no longer liable to be returned to imprisonment.

(c) Approved Homes

The superintendent has authority under Sections 38 to 40 of the Act to permit patients to be released into the custody of approved homes. While the patient is in such home, he is subject to the control of the superintendent, and to the rules of the institution in the same manner as if he had remained a patient in the hospital. There is a provision that no patient may be sent to an approved home who has been admitted to the hospital on the warrant of the Lieutenant-Governor until the Deputy Minister has certified that such patient is no longer liable to be returned to imprisonment.

CHAPTER III

CONSIDERATION OF PROBLEMS

Section I - GENERAL COMMENTS

While a mental illness is not essentially different from a physical illness, the form of treatment is necessarily different. In most cases of physical ailment the patient is ready and willing to co-operate with the physician in obtaining a cure, and in fact seeks the doctor for that purpose. The reverse is the fact in most cases of mental illness - the cure seeks the patient. It is because of this difference then that restraint upon liberty is necessary, and because of this detention, it is important to see that every safeguard is provided so that the patient will not be deprived of his liberty longer than the treatment necessitates.

Important as this phase of the subject is, it should not be lost sight of that the care and treatment of patients is just as important. Provisions looking to the discharge of patients are not more important than provisions for their admission and treatment. To this end it is important for the public to know that not all patients in the mental hospitals are deprived of their liberty in the sense that they are under detention; that it is only cases of mental illness in which the patient is a source of danger to himself or others where this is necessary. In all mental hospitals large numbers of patients enjoy varying degrees of liberty commensurate

with their ability to look after themselves and act rationally. Some have ground privileges while others enjoy the fuller privilege of being permitted to go around the city or town, to the parks, the public libraries and other places.

Section II - GENERAL OPINION ON ONTARIO HOSPITALS

It is the unanimous opinion of the members of the Commission that the Ontario Hospitals are extremely well run, and that the superintendents, physicians and members of the nursing staff are to be congratulated upon the very efficient manner in which they carry out their duties under trying circumstances. We are not in a position to compare the operation of hospitals here with the operation of hospitals in any other province or country, but we are firmly of the opinion that the Ontario Mental Hospitals would stand comparison with any similar institutions any place.

We were amazed at every hospital which we visited at the massof detailed information which was collected on the files with respect to each individual patient in the hospital. From the moment of his admission his conduct is carefully noted and charted by an attendant; his temperature is taken periodically and a complete history is made over a period of time in the admission ward as to his mental and physical state. A complete dental inspection is made and the chart attached to his file; chest examination is carried out for signs of

tuberculosis; blood and urine examinations are made. In addition to this, a patient manifesting any special symptoms is given special examination.

Section III - INDIVIDUAL CASES

While it is considered to be beyond the scope of this Commission's duties to pronounce judgment upon the regularity of the detention or certification of particular patients, we did give attention to a number of cases in which it was alleged that the certification had been irregular. In a number of cases we had the opportunity of seeing and hearing the patients personally, and of examining minutely into the case files at the institution.

Apart from a small number of medical certificates of private practitioners which appeared to be inadequate, the files in the institution indicated great care on the part of those responsible for the committal or admission of patients to mental hospitals.

We feel that it is only proper that the Commission should state that after its investigations, in no case does it appear that there has been a wrongful certification or that a patient has been detained longer in an institution than was necessary for his proper treatment.

In all hospitals we found the superintendents anxious to assist in the rehabilitation of patients by means of probation with friends or relatives, by use of

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East Block, Parliament Bldgs.
TORONTO

the boarding house system, and by discharge.

Section IV - UNFOUNDED COMPLAINTS

A number of investigations were made by the Commission Counsel and by the police constable loaned to the Commission for that purpose, of complaints which were received, but which turned out to be unfounded. While these investigations took up a good deal of time, we do not think they warrant more mention than is given in this paragraph.

Section V - COMMITTALS BY MAGISTRATES FOR OBSERVATION UNDER SECTION 35

This Section has given us much concern. Evidence was taken and obtained from the superintendents of all hospitals regarding its operation. A magistrate has power under its provisions to send a person charged with any offence to an institution (which might be an examination unit or a mental hospital or school) for observation for a period not exceeding sixty days. We heard from the superintendents that the average period of observation was from two to three weeks, some longer, but few shorter. In fact, we can recall no case in which a superintendent indicated a shorter period of observation than two weeks.

We also heard that during the period August 1st, 1935 to June 30th, 1938, there were 928 committals with 508 returned to court to be dealt with there. Similarly in Toronto the evidence of the superintendent of the Toronto Psychiatric Hospital to which

persons are committed by the magistrate under conditions similar to those under which committals are made to institutions outside the City of Toronto under Section 35, was that during the last year there were 224 committals, and of these about 53 per cent were returned to court.

Thus more than fifty per cent of those sent to these institutions are returned to court as not being certifiable as mentally ill. True, it was pointed out that a large number of those returned to court, though not certifiable as mentally ill, had some mental abnormality; that a report accompanied the patient's return to court, and that in consequence of that report the courts were enabled to deal with the cases more intelligently than they would otherwise be able to do.

It will be immediately apparent why this Section has given us such concern. More than fifty percent of the number of persons sent for observation were finally found to be sane, but had to spend periods varying from two weeks to two months in a mental hospital among patients in all stages of mental illness. Persons committed by magistrates for observation at the mental hospitals are received in the reception ward, and as we found out, all classes of patients are received there and kept for varying periods. Whether this section is retained in its present form or in an altered form, there will always be a percentage of patients who will be returned to court after having been found not a fit subject for certification, but it seems to us that the

percentage is entirely too high, and indicates that there is not enough trouble taken by the magistrate before sending persons to the hospitals under this section.

If examination units were to be established in general hospitals as is the case in the Civic Hospital in Ottawa, the serious situation which now exists would be to a great extent ameliorated. Whatever may be the wish of the Government and psychiatrists to educate the public to feel that a mental illness is to be regarded in the same light as a physical illness, there is no doubt that a certain stigma does attach to a person who has been sent to a mental hospital. There is, in our opinion, not the same objection to sending a person for an examination to a general hospital as there is to sending him to a mental hospital.

A person charged with an offence is entitled to bail pending trial, but when committed to an institution under Section 35, this right is denied. Thus one of the fundamental rights of a person can be taken from him, and this without the magistrate taking any evidence or having before him a certificate of any kind from a medical practitioner.

On the other hand there can be no doubt that the section has worked to the advantage of a large number of persons who have been admitted to mental hospitals and have been treated and cured of their illness -- cases which in the absence of a section of this kind would have been convicted of crime and sentenced to prison

without their particular psychosis being discovered and treated.

Under the provisions of the section the superintendent of the hospital is required to return the person to court to be disposed of within the period for which he is committed, if he finds such person to be fit to stand trial. If he is of the opinion, however, that such person is mentally ill or defective, he is required to have him examined by two medical practitioners. These examinations under this section, as in the case of other examinations by two medical practitioners under Section 20 of the Act, are supposed to take place separately and apart from each other. It will be seen that the intention of the Legislature was that one doctor should not be influenced by the opinion of the other in coming to a conclusion. But we found that it was the practice in every mental hospital to place in the hands of these independent doctors the history, clinical record, case record and diagnoses of the physicians in the hospital. All the superintendents of the hospitals who were examined before us were asked if they could recall any case in which one of the independent physicians had come to a conclusion different from that of the superintendent and the institute physicians, and none of them could recall a single instance, except Dr. J.S. Stewart, Medical Superintendent of Hamilton (Exhibit 37) who recalled one case where a physician had disagreed with the opinion of the superintendent, and in this case,

instead of the patient being released into the custody of the court, another doctor was directed by the magistrate to examine the patient, and he completed the necessary certificate.

(a) Examination by Independent Doctors

The superintendents were asked for their opinions regarding the necessity or usefulness of continuing the examination of the two independent physicians. Some of their opinions are as follows:

Dr. C.A. McClenahan, Superintendent of the Ontario Hospital, Penetanguishene, (Exhibit 34) thought that there might be more difficulty with patients who were certified after being committed under Section 35 because the Superintendent must, before obtaining an examination by two outside physicians, come to the conclusion that the patient is mentally ill, and this puts him in the position of being first a judge and then gaoler.

Dr. Clark, Superintendent of the Ontario Hospital, Kingston, (Page 951 of the evidence) thought it desirable to have the two doctors examine the patient from the patient's viewpoint. He stated that the patients develop enough feeling against the staff without feeling that the staff had certified them.

Dr. Tennant, Superintendent of the Ontario Hospital, Brockville, (Page 1007 of the evidence) thought it advisable to have two doctors certify because it created a better feeling between the staff, the patient and the relatives.

Dr. Fletcher, Superintendent of the Ontario Hospital, Whitby, (Page 1157 of the evidence) thought that the examination by the two doctors was an additional safeguard, and thinks that it is desirable to continue the practice upon the ground that it is more satisfactory so far as the public are concerned to feel that the patient was not committed on the authority of the staff alone.

Dr. McGhie, Deputy Minister of Hospitals, (Page 310 of the evidence) did not think the superintendent should be permitted to commit patients to their own hospital. He thought that the relationship between the staff and the patient is better when the certificate was by outside physicians.

(b) As to Altering Procedure under Section 35

The opinions of the superintendents were also obtained with respect to altering the procedure under Section 35. Some of their opinions were as follows:

Dr. McGhie, Deputy Minister of Health, (Page 1312 of the evidence) thought that magistrates should have the evidence or certificate of a doctor before committing to a mental hospital for examination. He also thought that after the period of observation had expired, the patient should be returned to the court and evidence taken there of the doctors who certified that he was mentally ill, and thus allow the magistrate to commit him to the hospital. He pointed out, however, that there was a great practical difficulty in carrying this out because of the distance from which some of the patients came to the hospital.

Dr. Stevenson, Superintendent of the Ontario Hospital, London, (Exhibit 32) gave the opinions of some of the senior medical staff in which they thought that magistrates should be required to commit after the period of observation had expired; that some other satisfactory place for the examination should be arranged so that the patient would not have to be detained in a mental hospital; that a physician's certificate should be required before a magistrate had power to commit for observation, and that a magistrate should be required to give this grounds which leads him to believe that a mental examination is required.

Dr. McClenahan, Superintendent of the Ontario Hospital, Penetanguishene, (Exhibit 34) thought that the section tended to make it too easy for the magistrates to remand cases. He also thought that the section would be improved by the establishment of a psychopathic ward in general hospitals where the examination could be carried out rather than in mental hospitals.

Dr. Horne, Superintendent of the Ontario Hospital, Orillia, (Exhibit 35) was of the opinion that there should be an observation centre for these cases, and that it would be better if such observation centre were not associated with mental hospitals. The establishment of a ward in the general hospitals for this purpose would be useful.

Dr. Senn, Superintendent of the Ontario Hospital, Fort William, (Exhibit 36) was of the opinion that the Section was abused, in that patients were

remanded to the hospital who were frankly certifiable, and should be certified by the magistrate before being sent there.

(c) Recommendations

After hearing the evidence, we feel that the provisions of Section 35 of The Mental Hospitals Act are abused, and that sufficient inquiry is not made in some cases before a person is sent to a mental hospital for observation. We feel that no one should have the stigma of having been placed in a mental ward upon him without some evidence having been taken by the magistrate to indicate that the case is a fit one for examination. The evidence of at least one medical practitioner should be before the magistrate, in addition to other evidence indicating mental abnormality before a magistrate could commit to an examination unit in a general hospital, and that where the committal for observation is to a mental hospital, the certificate of two duly qualified medical practitioners should be required. We also feel that steps should be taken at an early date to have psychopathic wards established in all general hospitals, to which these cases should be sent.

While The Psychiatric Hospitals Act under which the Toronto Psychiatric Hospital operates is not a subject of investigation under the terms of the Commission, we are of opinion that that hospital is in the category of an Examination Unit established in a General Hospital.

The right to personal liberty is one of the most cherished rights of our citizens, and it has been

long regarded as one of the tenets of British justice that that right should not be interfered with lightly. To that end various statutes have been passed which are regarded as fundamental pillars of the temple of justice, Magna Charta, the Bill of Rights and the Habeas Corpus Act. It is not pretended that the legislature has not the power to repeal or alter any one or all of these Acts, and we know that from time to time changes have been made in the law which have had the effect of altering or taking away the so-called "inalienable" rights of the British subjects.

We cannot, however, too strongly condemn a section of the law which has been found in its operation to infringe unduly upon the legal rights of an individual to his personal liberty.

Section VI - SEGREGATION

(a) Well Conducted Patients from Violent Patients

It would appear that segregation of well conducted patients from violent patients is carried out in all the hospitals as well as the facilities in the hospital will permit. Patients in the more violent wards are moved into other wards as their condition improves. It would appear, however, to be difficult to carry out ideal segregation owing to the overcrowded condition in some of the hospitals.

(b) Alcoholics and other Habitues from other Patients

It was the opinion of the superintendents that the treatment administered to alcoholics, that is the

withdrawal treatment, was the accepted treatment by the medical profession and as good as the treatment administered in any class of institution.

The opinion was expressed by some superintendents that alcoholics without psychosis should not be treated in mental hospitals at all. With this opinion we agree.

It would seem to be desirable that alcoholics should be segregated in one institution so that a ward could be given over to their care. It does not seem right that an alcoholic or drug habitue without psychosis should be housed with mentally ill patients. The small number of alcoholics in individual hospitals makes it impossible to carry out any ideal system of segregation under the present plan.

(c) Paretic Patients from other Patients

These patients suffer from general paresis of the insane, a condition which is an advanced stage of syphilis. All the superintendents were of opinion that there was no need to segregate these patients because of their paresis, which is not infectious or contagious and that barring the existence of other contagious diseases the only segregation necessary was the violent

patients from the well conducted patients.

(d) Tubercular Suspect Patients from the other Patients

We found that at the present time tubercular suspects are segregated as early as possible, and that when it is found that they have an active tubercular condition, the patient is segregated in the institution and transferred to the wing at New Toronto which has been set apart for active tubercular patients, as soon as a vacancy occurs there.

(e) Contagious and Infectious Diseases

These patients are at once segregated in the institution so that no further comment is required in connection with this class of patient.

Section VII - EXAMINATION UNITS

(a) Whether they should be in Mental Hospitals

It will be recalled that examination units may be created by the Minister of Health issuing a certificate approving of any building, premises, place or part of a building as an examination unit, under Section 59 to 62 of The Mental Hospitals Act. In addition to the method of obtaining admission to an examination unit on the certificate of two medical practitioners certifying that a person is mentally ill, or on committal by a magistrate under Section 35 of The Mental Hospitals Act for observation for a period not exceeding sixty days, provision is also made in Section 60 that any person

who is, or who is believed to be in need of observation, care and treatment provided in an examination unit, may be admitted threrto for a period not exceeding thirty days on a certificate of one medical practitioner. Section 61 provides that no patient shall remain in an examination unit for a period in excess of thirty days provided, however, that the Deputy Minister has authority to extend the period for an additional sixty days in the case of any patient other than the patient who is admitted on the certificate of one doctor. It was found that apart from the examination unit established in the Civic Hospital at Ottawa, all the other examination units in the Province are in mental hospitals.

The superintendents of the Ontario Hospitals in which examination units have been established stated that the section was very rarely used, and that in no case did they recall where it had been abused. Some of the superintendents did not think that any stigma attached to a person by reason of his having been sent to a mental hospital examination unit for a period of observation. Other superintendents thought that some stigma might attach to the person. The general opinion was, however, that there was a real need for a psychopathic ward in the general hospitals, and that these psychopathic wards could be established as examination units under this section of the Act.

Dr. S.J.W. Horne, the Medical Superintendent of the Ontario Hospital School at Orillia (Exhibit No.35)

states that in his opinion Section 60, which allows committal for observation for a period not exceeding thirty days in an examination unit is not necessary because "if the family physician has any doubt as to whether or not his patient is suffering from a mental illness, it is a very easy matter for him to call a consultation, and if as a result of consultation, it is the opinion of both physicians that the patient should require treatment in a mental hospital, that patient could be certified in the regular way."

Dr. J.N. Senn, the Superintendent of the Ontario Hospital in Fort William, (Exhibit No. 36) states that "I had personal experience (with this section) during my period at head office. My opinion there was that there is a definite place in the Act for this section, but that it was frequently abused by physicians in a similar way as Section 35 is by magistrates to overcome the longer, more time-consuming method of having a patient admitted".

(b) Recommendation

It is our opinion that the examination units which have at present been set up in Ontario Mental Hospitals should be discontinued, and that Section 60 of the Act should be amended to provide that no person shall be admitted to an examination unit except upon the certificate of two medical practitioners.

We strongly concur in the recommendations of all the medical superintendents that examination units should be established in general hospitals throughout the Province as soon as arrangements can be made.

Section VIII - BOARD OF REVIEW

(a) Advisability of Setting up Board

Evidence was taken by the Commission from the superintendents of all hospitals visited as to the advisability of setting up a board of review for the purpose of reviewing the case of any patient who was detained, and whose detention was alleged to be unwarranted. Briefs were obtained and filed from the superintendents of the Ontario Hospitals which were not visited. The composition and powers of the suggested board were discussed, and the advisability of having one or more central boards or a number of local boards, one for each hospital, was canvassed.

While most of the superintendents were of the opinion that the appointment of a board of review would not result in more discharges from the hospitals, the opinion was, however, with one dissent, that it was highly desirable that such a board be established.

(b) Composition of Board

There was a difference of opinion among the superintendents as to the composition of the board.

Dr. E.A. Clark, Superintendent of the Ontario Hospital, Kingston, (Evidence, Page 958) --

> "I think a board, a properly constructed board, would have very definite advantages -- to form a link between the public and the patient in the hospital."

(Evidence, Page 963) --

> "I think it should have one or more competent psychiatrists, but I think also it should certainly have a layman on it. I don't know how extensive this board should be. I think that is something else that would have to work out in practice, but I think that by having a lay representative on it, that it would go a long way towards creating in the public minds just the very thing that Mr. Conacher talked about."

Dr. C.S. Tennant, Superintendent of the Ontario Hospital at Brockville, (Evidence, Page 1021)

> "I feel that it is to my interest to have a board that I can refer cases to, where any question about improper detention arises.
>
> Q. Well, then, is it your opinion that the ideal board would be a central board operating for all the hospitals?
>
> A. I think so, yes.
>
> Q. And would you feel that the board should be composed entirely of psychiatrists, or that there should be general practitioners or lay representatives on it?
>
> A. I think it should be a board of psychiatrists.
>
> Q. You see no advantage to having a layman on it?
>
> A. Well, I don't. I don't know of any definite advantage.
>
> Q. No?
>
> A. In so doing they're passing -- the board is

passing on the mental condition of an individual, and it is a matter of illness of that individual, therefore, it is, in my opinion, a job for a practitioner who is skilled."

Dr. George A. Kidd, Superintendent of the Ontario Hospital, Cobourg, (Evidence, Page 1085) --

"A. I think that a board of review to go to all the Ontario Hospitals would be an excellent idea, and should consist of three psychiatrists, and review the cases of patients when they feel that the detention of the patient is unwarranted.

Q. You see no advantage of having a layman on the board or a general practitioner?

A. No, I don't. The board should visit each hospital at least every six months.

Q. You think it would be a protection for the superintendents then?

A. I do.

Q. Well, is that the sole advantage of the board?

A. Oh no, two physicians certify that this patient requires treatment when the patient is admitted, and I feel that if it is the opinion of the board of psychiatrists that he should leave the hospital, he should leave.

Q. Would you consider it advisable to have psychiatrists from outside the service?

A. I think it would be a good idea to have at least one psychiatrist from outside the Ontario Hospital Service."

Dr D.R. Fletcher, Superintendent of the Ontario Hospital at Whitby, (Evidence, Page 1170) --

"Q. Is it your opinion that such a board or boards would be desirable?

A. I think not.

Q. You think there is no necessity?

A. No, our patients are all entitled to write to their lawyer and I see that they go -- if they do write to their clergymen, to their families, to the Deputy Minister of Health, or to the

Minister of Health.

Q. The letters to those named persons go out uncensored in all cases?

A. They will go out uncensored, yes.

Q. Then in that connection, have you given any further thought to the matter of a board, and as to whether, if such a board or boards are established, it should be one board or more than one?

A. It should be one board or more than one board?

Q. Yes. Or did you simply decide in your mind that there should be no board, and give no further consideration to it?

A. No, you asked me to give consideration to it, and I did give some.

Q. Fine.

A. I would think that if you had a board to decide, that the time element is important -- it would be well to have them, perhaps more than one, so that they could reach the various centres without undue delay.

Q. I see, and how about the composition of the board? Would you have it composed entirely of psychiatrists, or would you have some layman, perhaps some general practitioner on the board?

A. Well, I would favour a board of psychiatrists with such legal advice as they might require.

Q. But should it be composed entirely of psychiatrists in your view?

A. I think it would be better."

Dr. T.D. Cumberland, Superintendent of the Ontario Hospital, New Toronto, (Evidence Page 1234) thought that the formation of a board would be an excellent idea.

"Q. And in your opinion, should such a board be one board operating centrally, perhaps from Toronto, or more than one board?

A. Well, it would be easier for it to cover the ground to have three boards, west to cover London, Hamilton and Woodstock; one centrally, to cover New Toronto, Whitby, Orillia and Penetanguishene; and one in the east to cover Cobourg, Kingston and Brockville.

Q. Doctor, is it your idea that such a board would be or should be composed entirely of psychiatrists, or perhaps include general practitioners or laymen?

A. Entirely of laymen, it ought to be.

Q. No psychiatrists?

A. I would suggest a board of laymen, and one of legal training as chairman of it, to direct the board. He is more capable usually at directing these boards. We have already got psychiatric opinion.

Q. In that case the board would have to depend almost entirely on the opinion of the superintendent and the staff?

A. Well, you could have the Inspector (Inspector of Hospitals) ex officio on the board to interpret the findings if you wished to."

Dr. J.R. Howitt, Superintendent of the Ontario Hospital, Toronto, (Evidence Page 1278) thinks that a board of review would be very advantageous, and that it should be one central board.

"Q. And would you have it composed of psychiatrists or laymen, or how would you have it composed?

A. I would think that they should be psychiatrists. Whoever is on the board would certainly have to be familiar with the field in order to pass judgment, and I don't see who is capable in that field except some one who has had some training in that field."

Dr. B.T. McGhie, Deputy Minister of Health, (Evidence, Page 1307), thought that the board should be composed of psychiatrists as well trained as the superintendents of the Ontario Hospitals; that there should be

one or more boards each of three members; that districts should be formed and then an inspector (a psychiatrist) should be sent to each district and could report the cases to the central board which should be reviewed.

Dr. Farrar, the Superintendent of the Psychiatric Hospital, Toronto, (Evidence, Page 1391) has come to no conclusion regarding the formation of a Board of Review. In his experience, if the superintendent of a hospital is not sure, he reports the case to the Department of Health, and the Department sends out two independent psychiatrists to examine the patient.

Dr. George H. Stevenson, Superintendent of the Ontario Hospital, London, (Exhibit 32) states that the appointment of a Board of Review would meet with general approval; that it should consist of eminent, well-qualified psychiatrists with certain legal representation; that it should not have persons on it other than psychiatrists and lawyers. Some of the doctors who composed the conference at London thought that the Board of Review should not be part of the Department of Health.

Dr. C.A. McClenahan, Superintendent of the Ontario Hospital, Penetanguishene, (Exhibit 34) thought that a central board composed of psychiatrists, general practitioners and lawyers would be useful for the purpose of sharing the responsibility for detention and release; that it would provide a means of contact between the patients and the outside world.

Dr. D.O. Lynch, Superintendent of the Ontario Hospital, Woodstock, (Exhibit 33) considered a Board of Review advisable. He suggested that there should be three boards, situated in the university centres, and comprised of equal numbers of psychiatrists, general practitioners and laymen, and one member of the board should be a lawyer; that the board should visit all the hospitals at various intervals.

Dr. S.J.W. Horne, Superintendent of the Ontario Hospital, Orillia, (Exhibit 35) is of the opinion that the formation of a board would be an excellent arrangement for the review of patients who feel their detention is unwarranted. He thinks the board should be composed of at least two qualified psychiatrists, a member of the legal profession as chairman, and any other representation that might be thought advisable, the board to be responsible directly to the Minister of Health.

Dr. J.N. Senn, Superintendent of the Ontario Hospital, Fort William, (Exhibit 36) favours the setting up of one central Board of Review, composed of psychiatrists and general practitioners. He feels that a general practitioner has a very definite place, as he frequently has more of the public viewpoint than the psychiatrist. If the board ordered the discharge of a patient, it is presumed they would do so against the advice of the hospital staff, and he doubts if a layman should be asked to take the responsibility of ever doing this.

Dr. J.S. Stewart, Superintendent of the

Ontario Hospital, Hamilton, (Exhibit 37) is of the opinion that it would be a protection to the medical staff of the hospital to have a regularly constituted board to whom appeals could be referred, and that the board should have a social worker on it, a general medical practitioner, and some one attached to the Crown Attorney's office.

(c) Board of Control in England

It is interesting to note that in England where the mental hospitals are not all operated by the state, there is a board of control under the Ministry of Health which has supervising powers over the mental hospitals. The Report of the Royal Commission on Lunacy and Mental Disorders printed in England in 1926 (Page 154) recommended that the Board of Control should consist of a lay chairman, a legal commissioner, a medical commissioner and a woman commissioner who might be non-technical. The annual report of the Board of Control for the year 1936 would indicate that this recommendation has been followed. There would appear to be a lay chairman, two medical commissioners a legal commissioner and a woman commissioner. It was further recommended (Page 155) -- "that a visiting staff of fifteen assistant commissioners be appointed containing medical and legal members, some laymen of suitable experience in public affairs, and in particular there should be a proportion of similarly qualified women". It would appear that this part of the report has been

partially followed by the appointment of eight medical commissioners and four legal commissioners.

(d) Recommendations

It is our opinion that the creation of a Board of Review or a Board of Control is highly desirable, and that such board should have power to release patients from institutions either by way of probation or discharge.

While we have indicated elsewhere in this report that we were unable to determine that any patient was being wrongfully detained in any institution, we are of the opinion that the appointment of a Board of Review would create a better feeling in the public mind. The superintendents of the various institutions themselves would no doubt refer cases to the board for whose release or probation they did not desire to take personal responsibility.

The composition of such a board has given your Commissioners a great deal of thought, and we have come to the conclusion that there should be lay representative upon the board. It is our opinion that a board composed of a lay chairman, who might either be a lawyer or some other layman of suitable experience in public matters, two psychiatrists and a general practitioner should be appointed. We can see no objection the board being responsible directly to the Minister of Health, but care should be exercised to have the Board operate as a separate unit and not as an integral part of the Department of Health.

Section IX - AS TO REQUIRING RELATIVES TO TAKE PATIENTS ON PROBATION

The superintendents of the various institutions throughout the Province were unanimous in declaring that relatives responsible for the committal or certification of a patient to a mental hospital should not be required against his consent to take a patient on probation, where, in the opinion of the superintendent, the condition of the patient warranted his release. They stated that if a patient were placed in a home in which he was not wanted, the condition there could be made so uncomfortable for him that it would hamper his complete recovery, and might in many cases aggravate his mental condition.

Section X - RE PERSONAL HISTORY AND INFORMATION ON CASE FILES

Looking into a large number of case records it was noticed that a great deal of the information on the files which apparently follows the patient from institution to institution, is pure hearsay, and that no apparent effort is made to check the accuracy of some of it. This information follows the patient throughout his institutional life and afterwards. It is apparently accepted by the authorities as accurate. Whether or not it is so accepted in the first instance, by the time it has followed the patient from one institution to another, its very repetition lends to it an air of authority. We are of the opinion that the sources of information should appear on the file, and that when that information is relayed to any other institution to which the patient is transferred, the original source

of the information should also follow the patient so that it will be apparent from whence the information comes, and whether or not it has been checked.

Section XI - BRIEFS SUBMITTED

(a) Appointment of Chaplains

A brief was received from the Social Service Council of Canada (Exhibit No.30) advocating the appointment of a full time permanent chaplain to Ontario Mental Hospitals. The Council offered its services to the Government in selecting and recommending for appointment competent men, giving proper attention the "denominational spread".

While we deeply appreciate the importance that religion and religious training plays in the life of each member of the community, whether he is a mamber of society outside or inside a hospital, we feel that the question submitted in the brief is one for the Government.

The religious needs of the patients are not neglected, and as the Deputy Minister of Health stated in giving evidence before the Commission, there are other things required in the hospitals before the appointment of full time chaplains.

(b) Sterilization

The Eugenics Society of Canada, represented by William L. Hutton, President, Brantford, Ontario, communicated with the Commission and requested that they be permitted to appear at sittings of the Commission in Toronto or Orillia. It was requested, however, that they file a brief, and in reply

to that request, the Commission were referred to a letter addressed to the Minister of Health, setting out certain recommendations of that body with respect to sterilization legislation. They suggest that a section be added to the Medical Act as Section 39 (a), and we see no objection to the enactment of the following section -

> "No action shall be brought against any duly registered member of the College of Physicians and Surgeons of Ontario for any liability arising out of any vasectomy and salpingotomy operations performed by him unless such operation has been performed without the consent of the person operated upon, or in the case of a mentally ill or mentally defective person without the consent of his or her parent or parents, guardian or guardians, as the case may be, provided that nothing herein contained shall absolve such member of the College of Physicians and Surgeons from liability arising through negligence or malpractice."

Possibly some provision might be made for obtaining two additional certificates from duly qualified medical practitioners that such an operation should be performed in the interests of society and the mental welfare of the nation.

The superintendent of one of the Ontario Hospitals, (Evidence P.1004) thought that if sterilization were permitted a comparatively large number of young woman patients could be liberated, and that while they would still be a sex problem in the community, they would not be the same problem. We have come to the conclusion that this is true, particularly of the mental defectives who are at present confined in Orillia and Cobourg. A large number of these patients have had pregnancies, and this we are convinced has contributed in a large measure to their detention as mental defectives in hospitals. The proposed amendment to The Medical Act is not a drastic one, and merely

gives to the parent or guardian of a mental defective the power to permit that to be done, which a person of sound mind could consent to have done upon himself. We recommend this for the consideration of the Government.

In making this recommendation we have not lost sight of the fact that there is a section in the Criminal Code which provides as follows:

> "207. Everyone is guilty of an indictable offence liable to two years' imprisonment who knowingly, without lawful justification or excuse
>
> > (c) offers to sell, advertises, publishes an advertisement of, or has for sale or disposal any means or instructions or any medicine, drug or article intended or represented as a means of preventing conception or of causing abortion or miscarriage or advertises or publishes an advertisement of any means, instructions, medicine, drug or article for restoring sexual virility or curing venereal diseases or diseases of the generative organs.
>
> (2) No one shall be convicted of any offence in this section mentioned if he proves that the public good was served by the acts alleged to have been done, and that there was no excess in the acts alleged beyond what the public good required."

But a doctor who performed a sterilization operation would not, in our opinion, be guilty of a criminal offence under the above section. There is no reason, therefore, to suppose that the legislation proposed above would not be within the power of the Provincial Legislature.

The fact that there appears to be no institution in the Province for boys corresponding to

the hospital at Cobourg would appear to add strength to the thought that a large number of these girls would not find themselves in an institution for mental defectives if they had not become pregnant. If the danger of frequent pregnancy were removed, we agree with the opinion of the superintendent of one of the hospitals that the problem would be to a large extent solved, and that a number of these patients could take their places in the community.

We are not blind to the fact that these girls would remain a sex problem, but this aspect is present whether the girl has or has not been sterilized.

As a corollary of the suggested legislation protecting the doctor who performs the operation -- there should also be legislation passed protecting the parent or guardian who gives his consent to the operation.

Section XII - TREATMENT OF PATIENTS

(a) Paying Patients and Indigents

It was obvious from a number of questions that were asked the superintendents of the various hospitals that they had no knowledge as to whether a patient was a paying patient or an indigent, and thus it was at once apparent that there is no difference in the treatment accorded to the paying patients or the indigent patients. The superintendents also thought that there should be no segregation as between these two classes of patients.

(b) Mail

Some complaint was heard by your Commissioners that correspondence addressed to persons outside of the institution was not mailed by the officers of the institution. It is our opinion that correspondence addressed to certain specified authorities should be forwarded by the institution without being opened. If a Board of Review is formed, any letters addressed to any members of the Board of Review, to the Minister of Health or to any member of the Government should be forwarded unopened. This, in our opinion, also applies to letters addressed to lawyers and to private doctors outside the institution. A certain discretion, of course, must be left with the superintendent in dealing with the outgoing correspondence of patients. A large number of letters written by patients are obviously not suited for transmission in the mail. Insofar as incoming mail is concerned, we do not see that any change is required.

(c) Lawyers and Doctors

We understand that at the present time lawyers and doctors are allowed free access to the patients at all reasonable times, and we think that this right should be continued.

(d) Boarding Houses

Owing to some criticism which we had heard regarding the class of houses in which patients are

boarded out, we visited a number of these boarding homes. We were received courteously in each instance and shown any part of the house which we desired to see. We found the surroundings pleasant, the houses clean, and nothing which could be complained about. It was indicated to us that in one of the approved homes the men patients, of whom there were three or four, were required to sit in the cellar. This, however, was entirely disproved. The landlady was a widow, and the house was not very large, and the only time the men were required to go to the cellar was for the purpose of smoking. She explained that in a small house with three or four men smoking it became very unpleasant. At another boarding home it came out in evidence before the Commission that the proprietor also had a track for training whippets and that a large crowd congregated on Sunday morning to see the dogs run and to bet on the races. While this might have had a bad effect on any patients living at the house, it was not established by the evidence that the superintendent of the hospital knew that the dogs were being trained there, or that the official visitor had reported to him that this was being done.

(c) Paretic Patients

Paresis is one type of insanity where the cause is known. It is the prolonged effect of uncured syphilis on the brain. It develops anywhere from eight to twenty or thirty years after the original infection. There are approximately five hundred cases of this type of insanity in Ontario Hospitals - the annual cost to the

Government being over $200,000.00.

As the sphere of preventive medicine and therapeutics is not strictly within the scope of the Commission the result of investigation made by the medical member of the Commission into the prevention of paresis and its treatment by the induction of artificial fever will be dealt with in a separate report to the Minister of Health by Doctor W.H. Avery who in collaboration with Professor Neymann of Northwestern University of Chicago has studied a large number of cases in which full cures have been effected by this means in a short period of time.

The evidence taken by the Commission indicates that at the present time paresis is treated in the Ontario Mental Hospitals by malaria.

We recommend to the serious consideration of the Government the new form of fever therapy. If a number of selected cases were treated and the result justified it, a survey could be made of all paretics and the hopeful cases could be concentrated in one hospital where facilities for treatment could be provided.

(f) Transfers to Houses of Refuge

It has been brought home to us during our investigation that the large population in our mental hospitals is accounted for to a large extent by the fact that in the majority of cases the patients are public charges. In a great many instances the environment in the home is such that probation is impossible, and in another there is a total absence of relations or friends willing

to take the responsibility.

A short time ago the superintendents of all the hospitals submitted to the Department of Health a list of patients who could be cared for in other types of institutions such as Houses of Refuge. These numbered 1,015 from all the institutions. The Department of Health has a liaison officer constantly at work arranging for the transfer of patients from mental hospitals to Houses of Refuge and other institutions as vacancies occur in them. It does not seem possible, in our opinion, to do more than is being done at the present time in this connection. The number of transfers depends entirely upon the accommodation available, and unless the county authorities start a building program for the purpose of enlarging county Houses of Refuge, the present system must continue.

Section XIII - SPECIAL INSTITUTIONS

(a) Orillia

The Ontario Hospital at Orillia is what is known as a hospital school. It is set apart for the care of mental defectives, and as many as possible of these receive vocational training. This institution is different from the other mental hospitals in that the patients have an arrested mental development, and the aim, therefore, of the institution is not cure so much as equipping the patient with sufficient training so that he may be successfully returned to the community as a self-supporting member of society.

Mental defectives of both sexes are found at the Ontario Hospital School at Orillia.

(b) Cobourg

The Ontario Hospital at Cobourg is a hospital for women. At the present time there are still 110 psychotic patients there, but these are being transferred to other Ontario Mental Hospitals as quickly as room can be made for them. The idea is to devote the Ontario Hospital at Cobourg to the training of girls for domestic service. At the present time there are about 248 girls of this type at the school who are being trained.

Your Commission feels that the stigma of having been in a mental institution should not be attached to most of these girls. The Superintendent stated that they were all mental defectives, and your Commission had the opportunity of talking to and taking the evidence of a number of them. It must be admitted that this institution is doing a very splendid work in the rehabilitation of girls of this type in conjunction with Lorimer Lodge (a building in Toronto where the girls are allowed to go on probation, and from there are engaged as domestic servants), If the name of this institution were changed to a training school for girls or something of that kind, we think that the placing of these girls in situations as domestic servants would be much easier than it now is. There is no doubt some reluctance on the part of the public to take into their homes, girls who are known to have been patients in mental institutions.

The girls interviewed by the members of the Commission appeared to be clean, bright, intelligent girls who took pride in their personal appearance. Most of them had their fingernails polished, their hair neatly dressed, their eyebrows plucked, and seemed to be anxious to be released so that they

might make their own way.

It must be admitted that this class of patient is very difficult to deal with. Some of them have given birth to illegitimate children, and some have had more than one. It was our opinion that in some cases had it not been for this sex experience they would not have been found in an institution. Deplorable as this state of affairs can be, it is felt that under the present state of the law this is not sufficient justification for locking up a girl and keeping her for an indefinite period in a mental hospital.

The definition of "mental defective" in the Act is no doubt elastic enough to cover all the cases, i.e., "a person in whom there is a condition of arrested or incomplete development of mind ----- and who require care, supervision and control for his own protection or welfare, or for the protection of others". But we feel that a general check should be made by the Board of Review, which we have recommended be appointed, of the inmates of this institution as soon as possible.

We were told that certain girls would be released as soon as their two year period of training was finished. This pretty clearly indicates that it is not mentality but lack of training which is the reason for their incarceration.

Section XIV - ONTARIO HOSPITAL, LONDON

(a) Hospital Buildings

Your Commissioners spent some time in visiting the various wards in the hospital, including the cottages and outbuildings. They also received in evidence the testimony of R. A. McAllister, the Deputy Minister of Public Works, in which he incorporated the reports of several previous Commissions and investigations

regarding the buildings at the Ontario Hospital, London.

The first report is the report of a Royal Commission on Public Welfare, known as the Ross Report, dated 1930, in which it points out that the two main buildings of the London Hospital are antiquated, but that the site is excellent. A further report was incorporated in Mr. McAllister's evidence, prepared by Dr. Hamilton, a psychiatrist from the United States, at the request of Dr. Faulkner, who was Minister of Health during 1934-37. This report suggests that the North Building and two of the three cottages occupied by patients be abandoned, (one of the cottages in question, viz., the West Cottage, is now occupied as Nurses' Residence) and that the Main Building should be reconstructed.

In February, 1938, a further report was prepared by Mr. Charles Dolfin and Mr. J.H. Craig, two architects from Toronto. This report deals entirely with the London Hospital, and is most comprehensive. The gist of this report is that the present site and buildings be abandoned.

In view of these reports which have been made to the Government from time to time, it is not thought desirable that this Commission should make any recommendation with regard to the buildings at London.

The site is a most pleasing one, and except for the fact that the grounds in front of the buildings are intersected by the main line of the Canadian Pacific Railway, it is ideally situated for its purpose. Consideration might be given to the abandonment of the

Institution property to the south of the main line of the Canadian Pacific Railway, which is now used for farm and garden purposes. This property is valuable, and could no doubt be disposed of readily. The entrance to the hospital grounds on Highbury Avenue could be used. This would obviate the necessity of crossing the tracks, as there is a high level bridge on this street.

Following one of the reports heretofore referred to certain reconstruction work was done in the Main Building. The old wooden floors on the first floor were torn out and terrazzo floors relaid. On the other floors of the building however, the material is all wood, and in some places is badly worn.

(b) Discipline of Staff

Your Commissioners inquired into charges of lack of administrative ability on the part of the Superintendent, and complaints by several attendants of undue severity on the part of the Superintendent in disciplining members of the staff.

(i) Complaint of A.W. Judge

This attendant claims that he was suspended by Dr. Stevenson for a period of one month without pay, unjustly. The suspension arose out of an alleged altercation which Mr. Judge had with two patients, namely, Melville Powell and Joseph Pawlowitz. The two incidents referred to occurred on the morning of the 14th. of July, 1938, and although they are separate incidents, occurred

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within a few minutes of each other. As a result the patient, Pawlowitz, sustained a black eye, but no apparent injury was done to Powell. After investigation Dr. Stevenson suspended as above indicated, and the suspension was confirmed by the Department of Public Health on a report from Dr. Stevenson.

Mr. Judge complains that he was attached by these patients and that he never struck either of them. In connection with the Powell incident, his report is that he found Powell lying on his bed smoking, which is against regulations, and warned him about it; that without a word of warning Powell sprang from his bed and attempted to assault him with a floor polisher; that in order to protect himself he got a headlock on the patient and subdued him without striking him, although during the scuffle they fell on their knees.

A few moments later Judge states that he heard a commotion down the corridor, and that he walked down to where Mr. Pawlowitz was standing in an argument with Powell about polishing the floor of his room. Judge states that he went to Pawlowitz and said, "Alright Joe, just move out of here and let this attendant polish this room", that without a word of warning Pawlowitz assaulted him, striking him with his fist around the head and face. He denies that he struck Pawlowitz back, but admits

that he did push him off with his shoulder.

Instructions given to attendants are that, if there is any difficulty whatever, they are to obtain assistance at once, and not under any circumstances to strike a patient. Judge states that an attendant named McLaughlin and another attendant named Gleason, both saw the incident in question, although he had no opportunity to call out for assistance. McLaughlin was called as a witness, and stated that he did not see the whole of the occurrence but was present only when Judge was picking Powell up from the floor. He never saw any blows struck between the two. He did, however, hear the patient accuse Judge of striking him, and Judge denied it. The attendant, Gleason, was also called, and gave evidence to the effect that he saw the trouble with Pawlowitz; that the patient struck Judge, but that Judge merely crowded him to prevent being struck. He does not, however, know how the patient got the abrasion on his eye.

Dr. Stevenson interviewed the attendant, McLaughlin, but claims that he was not told that the attendant, Gleason, had seen any of the trouble, and therefore did not get his story. Dr. Stevenson's evidence was to the effect that every time a patient is struck and injured, the attendant states that he has fallen against something. He, therefore, discounts stories of this kind told by the attendants

when patients are injured.

Your Commissioners are of the opinion that on the evidence before Dr. Stevenson, and in view of his previous experiences, he was justified in taking the action he did in this case. It is hard to credit the statement of Judge, that two similar incidents would occur almost simultaneously unless Judge were the aggressor.

(ii) Complaint of C.P. Stauffer

Stauffer's complaint was that he was suspended without pay for a period of one week for strictly observing the regulations of the Institution. The circumstances are as follows:

On August 3rd, 1938, Stauffer was an attendant on the observation balcony of Ward 2 on night duty. The instructions to the attendant on the observation balcony are contained on Page 465 of the evidence, and are as follows:

> "Each patient shall be under constant observation at all times. No patient shall be allowed to leave the special observation section for any purpose, except under the direct care of another member of the staff, who shall be fully responsible for the patient until returned to the special observation section. If patients are to be absent for more than a few minutes, the nurse or attendant taking the patients to the dining room, continuous bath, recreation, etc., shall sign for such patients in the column for special comments."

Stauffer stated that he interpreted this to mean that under no circumstances was he to leave the observation balcony. About 9.00 o'clock that

night, a patient named Antonie Pille left the observation balcony without permission, and when Stauffer saw him, he was going down the hall towards the toilet. He was about twenty feet away at that time. Stauffer admits that he knew this patient had on several previous occasions attempted to commit suicide. He made no effort to return him to the observation balcony, except to call out to another attendant, who apparently did not hear him, and to shout after the patient to come back. The result was that Pille went to the toilet and hanged himself. He was found a few minutes later unconscious, but never regained consciousness, and died the next morning.

Dr. Stevenson recommended to the Department at Toronto that Stauffer be suspended for a period of two weeks. The Department, however, concurred in the suspension for one week without salary. Dr. Stevenson stated in evidence that Stauffer, under the peculiar circumstances, knowing Pille's previous attempts on his life, should have taken the twenty or twenty-five steps necessary to return him to the observation balcony. Your Commissioners cannot disagree with the Superintendent's findings.

(iii) General

Evidence was heard by the Commission with respect to several other complaints, which however,

were of a very trivial nature, and do not, in the opinion of your Commissioners, require any action.

It is extremely important that attendants and nurses dealing with persons whose minds are unbalanced, and whose complaints must of necessity be discounted because of the very nature of their illness, should be impressed with the necessity of treating patients with the utmost kindness and consideration, even though it must be admitted that at times their patience is sorely tried. The Superintendent, Dr. Stevenson, in his evidence stated that he tried to impress upon all members of the staff that anything which a patient did, whether he was violent, blasphemous or filthy in his habits, was to be treated merely as a "symptom" of the particular disease which the patient had.

A superintendent of a hospital who knew that a patient had been ill-treated by an attendant, would be unfit for his post if he did not take immediate and drastic disciplinary action. Your Commissioners are of the opinion that to err on the side of severity is to be excused rather than to err on the side of leniency.

Section XV - INVESTIGATION OF DEATHS IN INSTITUTIONS

It was reported to the Commission that a number of violent deaths had taken place in the Institution at London, but that the Coroners who had investigated them had signed the reports as due to natural causes. Your Commission took evidence, and had the Provincial Constable attached to the Commission investigate several cases.

(a) Death of Antonio Pille

This patient attempted to hang himself in one of the toilets in the hospital on the 3rd day of August, 1938. He was cut down when he was unconscious, and died the next morning. No inquest was held nor autopsy done. The declaration of the Chief Coroner for the County of Middlesex was examined by your Commissioners in the office of the Clerk of the Peace, and is as follows:

> "The deceased was sent in by the Police Magistrate at Chatham. He had attempted suicide at Chatham, and tried to hang himself in the bathroom at the hospital, but was discovered before he had succeeded. He died of apoplexy. There was no foul play. Letter attached confirming."

The letter attached is from Dr. G.H. Lugsden, one of the physicians at the institution. Dr. Routledge gave evidence before the Commission. The Coroner appears to have accepted the views of the doctors of the hospital without much investigation.

In view of the unsatisfactory nature of the Coroner's declaration, and after hearing the evidence of Dr. Lugsden, it was determined to ask the Honourable the Attorney-

General for an order to exhume the body. Dr. E.R. Frankish, the pathologist attached to the Attorney-General's Department, came to London and had the body exhumed. An autopsy was done by Dr. Frankish, and certain sections were made by him of the organs and taken to Toronto for pathological examination. Dr. Frankish subsequently gave evidence of his findings, (Evidence, Page 1217) which indicated that death had been primarily due to strangulation, and that there was no indication of apoplexy. It is apparent therefore, that the man committed suicide, and that this was a case in which the coroner should have directed an autopsy in order to determine the cause of death.

(b) Death of Joseph L. Szas

This patient died at the Ontario Hospital, London, on the 8th. of August, 1938.

It was reported to us that the deceased had been killed by a punch over the heart, delivered by a patient named McNaughton. It would appear that no inquest was held into his death, but an autopsy was done by Dr. Johns of the University of Western Ontario. His report indicates that the deceased died as a result of an acute heart failure secondary to an epileptic seizure; that no marks of external violence were disclosed. It did appear from the report of the Hospital authorities that the patient had jumped on the back of another patient, and had then fallen to the floor where he died. It does not appear that there was any other reason for the death, and nothing to suggest that a full disclosure of all the particulars

was not madeto the Coroner and to the doctor who performed the autopsy.

(c) Death of Annie Mancari

This patient was drowned in the swimming pool on the grounds of the Ontario Hospital, London, on July 24th, 1938. An inquest was held by the Chief Coroner of the County of Middlesex, Dr. A.R. Routledge, on the 27th. day of July, 1938, in which the jury found that death was due to drowning, no blame being attached to anyone for this death.

The verdict was silent as to whether the death was accidental or suicide. We ordered a transcript of the evidence taken at the inquest.

Dr. Stevenson stated before your Commissioners that there was no reason to suspect that this woman would commit suicide, and he does not think she did so. His opinion is that the woman was accidentally drowned in the pool, as her shoes and stockings were found on the bank, and she had apparently on other occasions attempted to wade in the pool. There is no evidence to suggest negligence on the part of the hospital staff.

(d) Death of William Underhill

This patient died in the Ontario Hospital, London, on August 21st, 1937. Death was due apparently to a bowel obstruction due to adhesions. Information was given to your Commissioners that this man's death was caused by being kicked in the stomach by one of the

attendants. It would appear from the evidence adduced at the hearing that this patient was a bed patient, and had been greatly agitated. Dr. McCausland discovered some bruises on his abdomen, but in his evidence stated that in his opinion the patient could have inflicted these upon himself.

The Coroner's report was obtained from the office of the Clerk of the Peace, but no autopsy report was filed. It was learned however, that Dr. Johns of the University of Western Ontario had made a private autopsy, apparently for the family. A copy of this report was obtained and submitted to Dr. Frankish.

Dr. Frankish, in giving evidence (Evidence, Page 1218) for your Commissioners, stated that the post-mortem findings by Dr. Johns were consistent with the deceased having received a blow in the abdomen. Whether this blow was administered by an attendant or was self-inflicted could not, of course, be determined. It appears, however, to the members of the Commission that this was a case in which an autopsy should have been performed and an inquest held when the facts were all fresh in the minds of the attendants. The bruises discovered by Dr. McCausland on the abdomen would have been sufficient, in our opinion, to have warranted this action.

(Evidence, Page 1219) Dr. Frankish stated:

"Q. The man may have fallen out of bed or fallen against something, and it is possible he could have ruptured his own bowels?

A. Yes, I agree with that."

It was intimated to the Commission that certain persons could give evidence tending to show that the patient had been struck or kicked in the stomach by an attendant. All possible sources of information were investigated by your Commissioners, but no one could be discovered who could give evidence tending to show that there had been ill-treatment of this patient.

However, at a meeting of the Commission on November 15th., Dr. Harry Crooker of Tillsonburg appeared in company of John R. Green and offered to give evidence in connection with the Underhill case. Dr. Crooker stated that he was a patient in the hospital, having been committed there as an alcoholic at the time that Underhill died. He stated that he did not know anything about the Commission sitting in London, and had discussed this case with no one until the day he appeared at the Commission. Dr. Crooker stated that a couple of days before Underhill died, "he was being taken back downstairs -- he seemed to be a kind of a nuisance because he would stand up and he wouldn't do everything that they wanted him to do, and I think that he had been quite a nuisance from my observation. And at that time he went very quietly to bed after a knee being put very forcibly into his stomach." Dr. Crooker stated that Brislane was the name of the attendant who had put the knee in Underhill's stomach, and that after he was kicked he just "flopped over". It should be stated here that this witness appeared to be slightly intoxicated while giving evidence, and admitted having had four glasses of ale.

As a result of this evidence the Commission thought that some further investigation should be made into the Underhill case. Mr. Eric H. Silk, Counsel to the Commission, was therefore requested to go to London, and he obtained there a statutory declaration from John Brislane to the effect that he remembered a patient named William Underhill, and believed that he was assigned to him as a special attendant on one occasion. The declaration continues, "I could not swear that I did not have a scuffle with the said Underhill, but I am definitely sure that I did not abuse him or use more force than was necessary upon him. If I had kicked him I would remember having done so, but I do not remember kicking Underhill or any other patient either with my foot or my knee. I do not remember seeing any bruises on Underhill".

In addition to this, all the attendants who had been on duty during any part of the period between August 14th. and August 20th., 1937, were interviewed by Mr. Silk. Dr. Jay who was in attendance at that time, but who is now practising as a medical doctor in Kitchener, was interviewed by Constable Rogers of the Provincial Police Force on behalf of the Commission during the sittings of the Commission in London. None of these attendants admitted having seen Brislane or anyone else strike, kick or otherwise abuse Underhill, and each of them denied having heard any rumour or suggestion that a blow or kick had been administered to him. In addition to this, Mr. Silk interviewed a number of the patients who were in the ward at the time of Underhill's death. Fifteen of these patients were interviewed. Two of them having since been discharged, and some of those still in the hospital appeared to remember reasonably well occurrences that had taken place in the ward and at about the

time when the kicking episode is supposed to have occurred. None of them remember having seen Underhill abused in any way, and most of them stated they had not seen an attendant strike anybody.

In our opinion, the evidence of Dr. Harry Crooker cannot be accepted. Whether this patient, Underhill, received a blow from an attendant or inflicted the injury upon himself cannot be determined. The evidence of Dr. Frankish is that it was possible for the injury to have been self-inflicted, and there is not, in our opinion, any evidence deserving credit to the contrary.

(e) Death of John A. Best

This patient died in the Ontario Hospital at London on the 12th day of November, 1936. He was about forty-five years of age. An investigation was held by Dr. Paul J. Sweeney, Coroner, of London, and he determined that an inquest was unnecessary, and issued an order for the burial of the body. He gives the following as the causes of death:-- "bilateral lobar pneumonia and chronic alcoholism". Apparently this patient was admitted to the Ontario Hospital at London on August 10th, 1936. The report from the office of the Clerk of the Peace does not indicate that an autopsy was made, but it was subsequently discovered that Dr. Johns of the University of Western Ontario had made a private autopsy. A copy of this post-mortem report was obtained from Dr. Johns and submitted to Dr. Frankish because of a statement made informally to your Commissioners that the deceased had died as a result of negligence on the part of the hospital staff during a forced feeding. It was

stated that the tube had been inserted into the deceased's lung by a member of the hospital staff instead of into the stomach, and that this caused his death. Dr. Frankish gave evidence before your Commissioners, (Evidence Page 1223) and stated that there was nothing in the post-mortem report or the findings of Dr. Johns which would substantiate this, and no information was obtainable from any other source which would indicate that death had been caused by the negligence of the members of the hospital staff.

(f) Recommendations re Deaths in Mental Hospitals

It is highly desirable that no room should be left open for the suggestion that deaths in mental hospitals are "covered up", and that the fullest inquiry should be made by the coroner in all these cases, and where there is any doubt, an autopsy and an inquest should be held.

Investigations made by the Commission into the afore-mentioned deaths seem to indicate that the coroners' duties are performed in rather a casual and perfunctory manner insofar as deaths in these institutions are concerned. It would appear that the coroner is satisfied after he obtains the information from the ward physician, instead of making an investigation among the attendants and patients who might know something of the circumstances surrounding the death. It is felt that the coroner should be as astute in the investigation of cases in mental hospitals as in those which he investigates outside, and should not content himself with obtaining a

diagnosis or the views of the ward physician alone.

In two of the cases inve tigated we were of the opinion that had there been a due performance of his duties by the coroner, autopsies and possibly inquests would have been held. If this were done at the time, there could have been no room left for the suggestion that a suicide was deliberately covered up in the one case, and that in the other, death was caused by a blow from an attendant,

Section XVI - COMPLAINTS OF JOHN R. GREEN

This man was formerly a patient in the Ontario Hospital at London, and was released on the 31st. of August, 1938. He had apparently made some complaints to the Government with regard to the administration of the Ontario Hospital at London, and also with respect to the conduct of the Superintendent, Dr. George H. Stevenson.

He saw the members of the Commission a day or two prior to the passing of the Order-in-Council creating the Commission, and was at that time told that if he desired to make any charges, he should reduce them to writing. He furnished to the Commission and to Mr. Silk, the Commission Counsel, many pages of typewritten foolscap. A great deal of time was expended by the Commission Counsel, Mr. Silk, with Mr. Green in going over the various matters contained in his memoranda, and in sifting out the items which should be brought before the Commission. In addition, an officer of the Provincial Police Department, who was attached to the Commission, was employed for the purpose of investi-

gating many of the matters referred to in Mr. Green's memorandum. The consequence of the investigations conducted by the Commission's officer was that a great deal of time was saved, and it was found unnecessary to take formal evidence with respect to a number of matters mentioned in the memorandum.

Mr. Green gave evidence before the Commission on October the 4th and 5th, at London. He was represented by Mr. J.M. Donahue, Barrister, of London, Ontario. Some of his complaints are the following:

(1) That upon his admission on the 26th. of November, 1935, he employed Mr. Ferguson, a lawyer from London, to obtain a Writ of Habeas Corpus for him; that Dr. Stevenson was furious that he should take Habeas Corpus proceedings, and persuaded Mr. Ferguson to abandon them.

(2) That he was caught telephoning his wife, and for that so-called offence, was transferred from the examination unit to Ward 6.

(3) That Dr. Stevenson had interfered with Mr. Lewis, Barrister, and also Mr. Spencer, Barrister, both of whom were employed by Mr. Green to obtain Writs of Habeas Corpus for him; that owing to Dr. Stevenson's persuasion, nothing was done by either of these lawyers.

(4) That on August 8th, after being out in boarding houses for some months, he was returned to the hospital by attendants. Dr. Stevenson told him that he had been drinking, and then had him immediately put in

Ward 14, which is the most violent ward in the building. The next day he was transferred from Ward 14 to Ward 2.

(5) That at the time of his committal, or shortly thereafter, he was refused permission to deal with the Public Trustee or to deal with a solicitor with respect to a large claim which he had against the Bank of Montreal in Victoria for legal fees.

(6) That several of the staff doctors had recommended to Dr. Stevenson that Mr. Green be discharged from the Hospital, but that Dr. Stevenson refused to do it.

(7) That Dr. Stevenson told Miss Winnifred Green, the patient's sister, that the reason he could not discharge him was that the patient could be dangerous to him personally, and could ruin his reputation.

A great deal of time and a lot of evidence was taken in connection with these complaints. We do not feel, however, that any good purpose would be served by going into the matters in great detail. We are, however, definitely of the opinion that there was no personal animosity in the action taken by Dr. Stevenson against Mr Green at any time, and that he was not prompted by vindictiveness in any of his dealings; that he treated Mr. John R. Green as he did any other patient in the hospital. We are also convinced that Dr. Stevenson did not interfere in any way with the lawyers retained by Mr. Green on his Habeas Corpus proceedings. None of the doctors at the institution who were questioned and gave evidence on

oath substantiated Mr. Green's statement that they had recommended his discharge from the hospital. On the contrary, they stated that they did not do so,

With respect to the conversation between Dr. Stevenson and Miss Winnifred Green, the patient's sister, Dr. Stevenson states that something of the kind may have been said, but that the manner in which the statement is made distorts the truth; that in making the statement he was indicating to Miss Green the particu ar psychosis from which her brother suffered. Probably the most serious complaint that was made was that John R. Green had been returned to the hospital on August 8th, 1938, by order of the Superintendent because of a telephone message which the Superintendent is alleged to have received from Toronto that Green was communicating with the Department of Health, and was immediately placed in Ward 14, which is a violent ward. After going into this matter very fully, the evidence shows quite conclusively, in our opinion, that Dr. Stevenson did not receive any intimation from Toronto or elsewhere that Green was communicating with the Department in Toronto, and that that was not the reason why Mr. Green was returned to the hospital. Dr. Stevenson in his evidence stated that he had been receiving reports for some time that Mr. Green was becoming increasingly active, which indicated to him that he should be returned to the hospital for treatment. Dr. Stevenson also gave evidence as to the reason why Green was put in Ward 14, (Evidence Page 631) --

"Q. And you put him in Ward 14, did you?

A. We put him in the special observation balcony which I described this morning, which is a part of Ward 14.

Q. Why did you put him there?

A. Because I felt he needed special observation for that night.

Q. Why?

A. Because I considered he was quite excited and was under, or at least smelled of alcohol, and I didn't know how much of his excitement might be due to alcohol. Knowing how restless he can be in these excited phases, I figured he should be under close supervision that night.

Q. Did you ever know him to be suicidal?

A. No

Q. Why did you put him in Ward 14 then?

A. Because those special observation balconies are the only places we have where a patient can have constant observation.

Q. Was he depressed?

A. No

Q. Do you remember what you told us the purpose of the observation balcony was this morning?

A. Yes, that is the major purpose of the observation balcony, for depressed patients, but they can also be used on occasion if a patient needs special observation for any other purpose, and in my opinion, he needed special observation that night.

Q. Why did he need special observation?

A. Well, because we know from past experience how restless and active he is when he is in these manic phases, and I didn't want him disturbing other patients and going into other patients' rooms and things of that sort. It was, I think, nearly eleven o'clock at night. I wanted him to be quiet and under good supervision all night.

Q. Haven't you got any private rooms in the institution?

A. We have no private room where a patient can be

> under a special observation unless we put a special attendant on with him, and there was no occasion to do that."

We do not feel that we can disagree with the medical opinion of the Superintendent of the hospital who had known Mr. Green for some time,

We understand that Mr. John R. Green has started certain civil proceedings, and we have no doubt that if any of his rights have been improperly interfered with, he will be vindicated there, in the civil courts.

Section XVII - GENERAL

On the 7th of October, 1938, we made an interim report, recommending that Dr. George H. Stevenson, the suspended Superintendent of the Ontario Hospital at London, and Dr. James R. McGeooh, the acting Superintendent of the Ontario Hospital at London, who had also been suspended, be reinstated in their positions without loss of pay.

As our investigation has not disclosed any improper conduct on the part of Dr. Stevenson, and as he appeared from the evidence to have performed his duties in a very efficient manner, we are of the opinion that he should not be penalized by reason of his suspension. It was also felt that as Dr. McGeoch's suspension arose out of the original suspension of Dr. Stevenson, he should not suffer any consequences by reason of anything which flowed from charges which had not been substantiated.

CHAPTER IV

SUMMARY OF RECOMMENDATIONS

(a) Committals for Observation

We are of the opinion that before a magistrate commits for observation, he should be required to have before him a certificate of one medical practitioner, in addition to other evidence indicating mental abnormality where the committal is made to an examination unit located in a general hospital,

Where, however, the magistrate commits for observation to a mental hospital, we are of the opinion that the magistrate should be required to have before him the certificates of two duly qualified medical practitioners that the person before him is suffering from a mental disorder and is a fit case for observation in a mental hospital. (See Page 32, subsection (c).)

(b) Alcoholics

We do not think that alcoholics without psychosis should be treated in mental hospitals at all. It does not seem right that a person who is not suffering from a mental illness in any form should be housed with mentally ill patients. If, however, the present system is continued, we feel that the alcoholics without psychosis should be segregated in one hospital, so that a ward or part of a ward could be given over to their care. (Page 33, sub-section (b).)

(c) Examination Units

Our recommendation is that the examination units which are at present established in the mental hospitals be discontinued, and that arrangements be made as soon as possible to have examination units set up in the general hospitals. We also recommend that Section 60 of the Act be amended to provide that no person should be admitted to an examination unit under that Section except upon the certificate of two medical practitioners, (See Page 37, subsection (b).)

(d) Board of Review

A Board of Review should be set up as soon as possible, to which appeals could be made by patients or their relatives in cases in which it is alleged that the detention is unwarranted. We feel that one central board is to be preferred to a number of boards in different parts of the Province. That the Board should be directly responsible to the Minister.

In our opinion there should be a lay representative on the board who should be the chairman. He might either be a lawyer or some other layman of suitable experience in public matters. In addition to the lay representative, there should be two psychiatrists and a general practitioner. The board, in our opinion, should have the full power to release patients, either by way of probation or discharge. (See Page 46, subsection (d).)

(e) Personal History on Patients' Files

We think that greater care should be taken to indicate on patients' files the source from whence infor-

mation is obtained as to the patient's previous behaviour, character and personal history; that when a patient is transferred from one institution to another, care should be taken to see that the sources of the information on his file are also sent. It is apparent that the information on the patient's file as to his previous character and conduct plays a great part in determining his mental condition, and for that reason it is extremely important to be able to determine whether the information there given is or is not accurate. (See Page 47, Section X.)

(f) Sterilization

We heard evidence to the effect that if sterilization were legal in Ontario, a number of woman patients might be released from the Ontario Hospitals. In addition to this, we examined carefully into a number of cases at the Ontario Hospital, Cobourg, which is given over to the training of mentally defective girls. In our opinion a large number of these girls have been committed to the institution because they have become pregnant, and had it not been for that, they would never have found themselves in an institution for the mentally defective. If sterilization could be carried out, while these girls would still be a sex problem in the community, they would not be the same problem that they are now. We therefore recommend for the consideration of the Government, an amendment to The Medical Act providing that no action shall be brought against a doctor who performs such an operation with the consent of a parent or guardian of a mentally ill or a mentally defective person, or against a parent or guardian for giving such

consent. (See Page 48, subsection (b).)

(g) Mail

We think definite instructions should be given to the superintendents of all mental hospitals that correspondence addressed by the patients and sent to specified authorities should be forwarded by the institution without being censored or opened. Letters addressed to the Board of Review (if one is formed), to any member of such board, to the Minister or Deputy Minister of Health or any member of the Government, to lawyers and private doctors outside the institution should go uncensored. We, of course, know that a large number of letters written by patients are obviously not suited for transmission in the mail. (See Page 52, subsection (b).)

(h) Paretics

There are approximately 500 patients in Ontario Mental Hospitals suffering from General Paresis of the Insane (known as G.P.I's). It is the result of uncured syphilis. At present it is treated by malaria. We recommend to the Government the serious consideration of the trial of artificial fever in its treatment. If the results justified it a survey could be made of all paretics in the Ontario Hospitals and the hopeful cases concentrated in one hospital where facilities for this treatment could be provided. (See Page 53, subsection (e).)

(i) Ontario Hospital, Cobourg.

In our opinion this institution should be re-named. At the present time it is used for the purpose of training mentally defective girls for domestic service. There is some difficulty in getting these girls placed after they

have finished their course in training, because the ordinary citizen does not want to take into his home a girl from a mental hospital. We are of the view that if the name were changed to a Girls' Training School or some such name, there would not be the same difficulty in placement.

We are also of the opinion that a large number of cases of girls at this institution should be investigated for the purpose of determining whether or not they could not be released on probation. It appeared to the members of your Commission that there were a number of border line cases. (See Page 56, subsection (b).)

(j) Coroners' Investigations

In connection with a number of deaths which took place in the institutions, and which were investigated by the Commission, we felt that the coroner had performed his duty in a casual and perfunctory manner; that he had not investigated these cases as he would have investigated cases outside the institution; that he had accepted the opinion of the institution doctor without much concern as to its accuracy. We are of the opinion that coroners who investigate deaths in these institutions should be extremely careful to see that a full investigation is made, and a statement obtained from every person who might be able to give information relating to the death. The coroner should not stop at obtaining the opinion of the physician in the hospital, but should satisfy himself by a personal examination. (See Page 72, subsection (f).)

CONCLUSION

In concluding our report we cannot too highly commend the services of Mr. Eric H. Silk, who acted as Counsel to the Commission. His able assistance greatly shortened the length of the sittings, and the manner in which he summarized the great mass of correspondence and reports received by the Commission, and carried out independent investigations at the request of your Commissioners, was of great value.

We are also grateful for the services and assistance of Mr. Albert E. Baker, who acted as Registrar for the Commission.

"Clifford R. Magone"

Chairman

"W.H. Avery"

Commissioner

"Lionel Conacher"

Commissioner

December 29th., 1938

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